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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,005	06/25/2001	Michael Shawn Giffin	SNY-P4260	9424

24337 7590 10/19/2004

MILLER PATENT SERVICES  
2500 DOCKERY LANE  
RALEIGH, NC 27606

EXAMINER
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NGUYEN, QUANG N

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/891,005

Applicant(s)

GIFFIN ET AL.

Examiner

Quang N. Nguyen

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06/25/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Detail Action***

1. This Office Action is in response to the Application and the Preliminary Amendment filed on 06/25/2001. Claims 1-27 are presented for examination.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-3, 5, 7-10, 12, 14-16, 18 and 20-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henzerling (US 2002/0074413 A1), in view of Hans et al. (US 2002/0120577 A1), herein after referred as Hans.**

4. As to claim 1, Henzerling teaches a wireless music device and method, comprising:

storing a music file for a user (*a user may store selected music files on a database within the internet 71 or within a database on a server 80*) (paragraph [0018]);

receiving a request from the user for playback of the music file (*if a user would like to hear some music that is not already stored within memory 52 of music player 50, transceiver 51 may use a wireless communication protocol to request a music file stored on either a personal computer 60, the internet 71, or another server 80*) (paragraph [0016]); and

transmitting the music file to the user for playback, using wireless transmission (*music player 50 may receive the requested music file through the wireless communication and store the music file in memory 52*) (paragraph [0019]).

However, Henzerling does not explicitly teach that transmitting the music file to the user for playback as a streaming music file.

In a related art, Hans teaches a system and method for managing access to digital content, wherein the requested digital content maybe transmitted to the user as a complete file or in a streaming file format (Hans, paragraph [0022]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Henzerling and Hans to transmit the music file to the user for playback as a streaming music file since such methods were conventionally employed in the art to allow the music file to be formatted in a suitable format for rendering by a various receiving device such as a computer, a wireless device, or a voice device (Hans, paragraph [0022]).

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5. As to claim 2, Henzerling-Hans teaches the method of claim 1, further comprising:

receiving from the user a request to store the music file; and wherein the storing is carried out as a response to the request to store the music file (Henzerling, paragraph [0018]).

6. As to claims 3, 5 and 8, Henzerling-Hans teaches the method of claim 1, further comprising paying a royalty for use of the music file or charging the user a fee for transmitting the music file to the user (*if the user is not previously licensed, content manager may invite the user to purchase a license*) (Hans, paragraphs [0022 & 0024]).

7. As to claim 7, Henzerling-Hans teaches the method of claim 1, further comprising obtaining the music file from a commercial music source (*i.e., from a remote content provider node 16*) prior to the storing (Hans, paragraph [0022]).

8. Claims 9-10, 12 and 14 are corresponding electronic storage medium claims of method claims 1-2, 5 and 7; therefore, they are rejected under the same rationale.

9. Claims 15-16, 18 and 20 are corresponding data center claims of method claims 1-2, 5 and 7; therefore, they are rejected under the same rationale.

10. As to claims 21-22, Henzerling-Hans teaches a music player 50 comprising:

a wireless transmitter and receiver for transmitting the user commands to a data center to transmit the streaming data and receiving transmission of streaming data (*the music player 50 may comprise a transceiver 51 that maybe used to request and/or receive music files requested by a user*);

a streaming audio decoder, coupled to the wireless receiver for decoding the streaming data into analog audio signals; and an audio circuit that converts the analog audio signals into audible sounds (*once the music file is stored in memory 52, the user may play the music file at his pleasure, therefore, the music player 50 inherently has a streaming audio decoder and an audio circuit to convert the analog audio signals to audio sounds*) (Henzerling, paragraphs [0014 and 0019]).

11. As to claim 23, Henzerling-Hans teaches the music player of claim 21, further comprising a cache memory (*memory 52 within music player 50*) coupled to the streaming audio decoder for caching the streaming data (Henzerling, Fig. 1).

12. As to claim 24, Henzerling-Hans teaches the music player of claim 21, embodied within one of a wireless communication device, a cellular phone and a personal digital assistant (Henzerling, paragraph [0013]).

13. Claim 25 is a combination method claim of music player claims 21-22; therefore, it is rejected under the same rationale.

14. As to claims 26-27, Henzerling-Hans teaches the method of claim 25, wherein the streaming data file is received using a wireless protocol such as Wireless Application Protocol (Hans, Fig. 2, paragraph [0025]).

**15. Claims 4, 6, 11, 13, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henzerling, in view of Hans, and further in view of Kurihara et al. (US 2002/0023101 A1), herein after referred as Kurihara.**

16. As to claim 4, Henzerling-Hans teaches the method of claim 1, but does not explicitly teach charging the user a fee for storage of the music file.

In a related art, Kurihara teaches a content managing system and method having a customer file storing means for storing the file of a content to an user area 18 assigned to each user, and the content managing company 1 will charge the user corresponding to the size of the user area 18 (Kurihara, Fig. 1, paragraph [0045]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Henzerling-Hans and Kurihara to have the user paying a fee for storage of the music file since such methods were conventionally employed in the art for the servers to provide a user area for storing files of contents to a user with a charged fee so the user can freely use the user area in the range of the contracted capacity to add, delete, move and access a content stored in the user area.

17. As to claim 6, Henzerling-Hans-Kurihara teaches the method of claim 1, further comprising uploading the music file from the user prior to the storing (*the user can store the file of his or her content to the user area 18*) (Kurihara, paragraph [0044]).

18. Claims 11 and 13 are corresponding electronic storage medium claims of method claims 4 and 6; therefore, they are rejected under the same rationale.

19. Claims 17 and 19 are corresponding data center claims of method claims 4 and 6; therefore, they are rejected under the same rationale.

20. Further references of interest are cited on Form PTO-892, which is an attachment to this office action.

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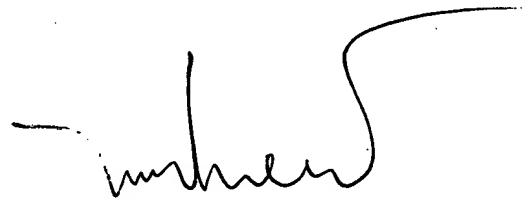
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21. A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (703) 305-8190.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for the organization is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)

A handwritten signature in black ink, appearing to read 'Le Hien Luu', with a long horizontal line extending to the right.

LE HIEN LUU  
PRIMARY EXAMINER